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Chapter 7 Kadin and the Manpower Law of 2003

7.1 Introduction

Before 1998, when Soeharto was still in power, labor rights in Indonesia were hardly discussed. Instead, they were suppressed and abused.⁴³⁹ Yet, since the fall of Soeharto, several changes have been introduced to improve the freedom and rights of labor, as well as to secure their material welfare in terms of wages, pensions, etc. This chapter discusses one of these changes: the legislation on the ‘Settlement of Employment Terminations and Determining the Payment of Severance Pay, Long Service Pay and Compensation in Firms’.⁴⁴⁰ The discussion in this chapter follows the chronological description of how Kadin tried to influence policymaking on this new legislation.

In 2000, the Minister of Employment and Transmigration issued the Ministerial Decree No. 150/2000 relating to changing existing labor laws. This decree was revised twice (resulting in the Ministerial Decrees No. 78/2001 and Ministerial Decree No. 111/2001) and later turned into the Manpower Law No. 13/2003. Several articles, dealing with such issues as the settlement of employment terminations and long service pay, led to strong reactions from employers and to strong, and sometimes even violent, protests from employees.

The analysis in this chapter focuses on the role of Kadin in the process of creating and implementing labor legislation from 2000-2003. We aim at addressing the following issues. First, we discuss how Kadin responded to the contents of Ministerial Decree No. 150/2000, which were very labor-friendly initially. When this decree was issued, Kadin and other business associations immediately expressed their worries. They claimed that the articles in the decree would lead to a large increase of labor costs, which would endanger the country’s economic performance, leading to a decline of the Indonesian economy. We will see that due to the criticism of Kadin and others, the government was willing to modify some of the articles, which led to Ministerial Decree No. 78/2001.

⁴³⁹ Manning, 2004; Van der Eng, 2004.

⁴⁴⁰ Keputusan Menteri Tenaga Kerja R.I. Nomor: Kep-150/Men/2000; Tentang Penyelesaian Pemutusan Hubungan Kerja dan Penetapan Uang Pesangon (Severance Pay), Uang Penghargaan Masa Kerja (Long Service Pay) dan Ganti Kerugian (Compensation) di Perusahaan, see “Peraturan Pemerintah RI dan Keputusan Menteri Tenaga Kerja Tentang Ketenagakerjaan, Jamsostek, Penempatan TKI, UMR/UMP dan Serikat Pekerja/Buruh”, 2001, CV. Tamita Utama, Jakarta, pp.41-67), see also Sri Kusumastuti Rahayu and Sudario Sumarto, “The Practice of Industrial Relations in Indonesia”, SMERU Research Team, March 2003.

Second, we discuss how the labor movement reacted to the intentions to revise Decree No. 150/2000 and issue Ministerial Decree No. 78/2001. We will see that labor protests emerged on a large scale. Next, we will show that the reactions from the labor movements again led to a response from the government: it modified Decree No. 78/2001 and published Ministerial Decree No. 111/2001, which partly reversed earlier modifications as demanded by the employers.

Third, we discuss the process of the increasing tensions between business associations and labor unions about the new labor legislation. Ultimately, during the presidency of Megawati these tensions led to the creation of a tripartite forum of state, business and labor to solve conflicts related to business-labor issues. When President Megawati came to power, she appointed Jacob Nuwa Wea, a former labour representative, as her Minister of Manpower and Transmigration. He managed to finally find a compromise between business and labor, which, however, appeared to be a disappointing result for both sides.

We investigate the process of tripartite interaction between business, labor and the government, which led to the preparation and introduction of Manpower Law No. 13/2003. In the tripartite dialogue business and labor were to negotiate under the guidance of the state. The tripartite dialogue forced labor and business representatives to accept compromises on the contents of labor market policymaking. At the same time, however, within the framework of the tripartite dialogue both parties were also competing to get their interests recognized by the state as much as possible. We will briefly address the role of the media in the business-labor policymaking process. The media affected both success and failure of Kadin's interventions.

The discussion of the creation of a new labor law in the early 2000s illustrates how Kadin after 1998 was challenged by other, newly emerging social pressure groups – in this case the labor movement – which also tried to influence policymaking by the state. This was new to Kadin. In our analysis we seek to describe and understand to what extent Kadin was successful in representing the business sector's interests in this increasingly competitive environment.

Interestingly, in contrast to the previous two cases, business operated collectively, and for the first time Kadin was seen as an important venue for representing interests, in this case vis-à-vis labor. Due to this collective approach, the analysis suggests that in the end the business sector and Kadin as its main representative were successful in changing at least partially the labor laws according to their own interests.⁴⁴¹ At the same time, the business community had to cope with the fact that labor unions played an important role in policymaking after 1998.

⁴⁴¹ See also Manning (2008) and Caraway (2004) who have shared similar views on this.

This chapter is organized as follows. Section 7.2 briefly discusses labor legislation and labor rights in the pre-reform period. This describes the context in which discussions on reforming labor laws took place during the *reformasi*. Sections 7.3-7.9 chronologically describe the development of, and disputes related to, the drafting of new labor legislation between 2000 and 2003. The chapter ends with a short summary and conclusions in Section 7.10.

7.2 Labor Laws before the Reformasi

Labor legislation in Indonesia dates back to the first years after the independence. When Soekarno was President he established a number of laws – the first one was ratified as early as 1948⁴⁴² – that were effectively favoring labor. These laws secured workers’ freedom of association and assembly, as well the right to strike and bargain collectively over labor rights. In case of labor dismissals, so-called dispute-resolution committees consisting of representatives of employers, workers and the government had to approve such decisions. Firing workers was therefore not easy and even expensive, since employers had to make severance payments.⁴⁴³ The most important law in this respect was Law No. 1/1951. It included detailed protection for labor and discussed issues such as working hours, restrictions on child and woman labor, annual leave, etc.⁴⁴⁴ Table 1 in the appendix provides an overview of labor legislation since the country’s independence.

During Soekarno’s presidency several labor unions were established. In most cases, these unions were affiliated to different ideologies and/or religions, such as communism, nationalism or the Islam. At the end of the 1950s, there were twelve different labor unions, the biggest of them being the All-Indonesia Central Labor Organization.⁴⁴⁵ This union was affiliated with the Indonesian Communist Party.⁴⁴⁶

he used his power to issue several decrees that gave the regime possibilities to effectively limit labor rights, for example through strict registration requirements in case of strikes, and interventions by the military and/or policy in cases of labor disputes and strikes.⁴⁴⁷ Also, striking was made more difficult by imposing legal barriers. Moreover, when he came to power, Soeharto banned the All-Indonesia Central Labor Organization. In line with the corporatist model of the New Order, in 1973 he established one state-controlled trade union: the All Indonesia Workers Federation.⁴⁴⁸ In 1985 this union was

⁴⁴² Law No. 12 on Labor.

⁴⁴³ Caraway, 2004.

⁴⁴⁴ Manning and Roesad, 2007.

⁴⁴⁵ Sentral Organisasi Buruh Seluruh Indonesia (SOBSI)

⁴⁴⁶ Partai Komunis Indonesia (PKI).

⁴⁴⁷ See appendix Table 2 for a list of ministerial decrees and regulations since the 1950s.

⁴⁴⁸ Federasi Buruh Seluruh Indonesia (FBSI).

renamed as the All Indonesia Workers Union, or Serikat Pekerja Seluruh Indonesia (SPSI).⁴⁴⁹ Pressure was put on other unions to merge into this state-sponsored union. Any remaining non-state controlled unions would have no access to the state and therefore had hardly any influence. The state-sponsored union became an umbrella organization of 21 labor unions representing labor in different sectors. In this respect, the union found itself in a similar position as Kadin did during the Soeharto regime.

Especially during the 1980s, the regime was strongly oppressive to labor.⁴⁵⁰ Thanks to international pressure, labor oppression was reduced to some extent, leading to the introduction of some regulations favoring labor (such as minimum wages and a holiday bonus requirement). Yet, the government never really gave up its approach towards labor and continued to be oppressive when needed. To conclude, during Soeharto's regime labor rights were therefore effectively neglected. Although labor legislation was protective, at least formally, the decrees and military interventions strongly reduced the practical effects of this legislation.

7.3 Labor Policies in the Post-Soeharto Period: The Early Days

After the fall of Soeharto, the political landscape changed quite dramatically. As has been discussed in Chapter 3 of this thesis, the government – instead of being rather immune to outside interference with policymaking – suddenly had to deal with increased activism from parliament and society. The political power of the President in decision making had been reduced substantially as compared to that of Soeharto during the New Order. Moreover, increased activism in parliament and the reduced influence of Golkar meant that ministers had to negotiate important policy decisions with many different political parties before these decisions could be made. Also, social pressure groups became stronger vis-à-vis the government and had better access to policymaking processes now that the power of the President and executive had weakened. Finally, the government was more closely monitored by the media after it had received more freedom of press.

Within this process of political change after the reformasi, labor was developing into a force that gradually became more powerful. This was partly

⁴⁴⁹ The establishment of the FBSI and later the SBSI was embedded in the *Pancasila* ideology on industrial relations. This effectively meant that the labor union was not supposed to organize strikes and protests as this would run against one of the central principles of Pancasila, which stresses communalism and togetherness. See Sri Kusumastuti Rahayu and Sudario Sumarto, *ibid.*, p.5.

⁴⁵⁰ During 1983-1988 Sudomo, a former navy official, was Minister of Manpower and Transmigration. He adhered to the so-called security approach to reduce the number of labor conflicts and violently oppress them when they came to the surface (Caraway, 2004, pp.33-34).

due to the public opinion on how the Soeharto government had treated labor before 1998. Actually, Soeharto increased feelings of injustice when in September 1997 – just a few months before he had to resign – he passed Manpower Law No. 25/1997. This law formalized several restrictions on labor and labor union activities, such as limits on strikes and registration requirements for labor unions. The law was very controversial and even the state-controlled SPSI was against it. Notwithstanding the protests Soeharto passed the law.⁴⁵¹ The oppressive nature and human rights abuse of the Soeharto regime gave labor leverage after the reformasi in the sense that people expected the new government to compensate for the behavior of the previous regime and to give in to at least some of the claims labor was going to make. Moreover, public opinion and policymakers had become critical of neo-liberal policies that were demanded by the International Monetary Fund and the World Bank during the crisis, which especially hit the poor.⁴⁵² Again, this was expected to lead to more attention for labor demands from the government.

The rising power of labor was also due to international developments. One major development was the ratification of International Labor Organization (ILO) Convention No. 87 in June 1998. This convention established the freedom of association and protection of the right to organize. Although initially ratification of this convention did not lead to changing labor policies of the Indonesian government (as it remained committed to the Manpower Law passed by Soeharto in 1997), continuous pressure from the ILO especially made the government decide to improve labor policies. In particular, under the guidance of ILO it issued Trade Union Law No. 21/2000, which was one of the first major laws that were accepted during the reformasi.⁴⁵³ This law permitted workers to establish labor unions at the enterprise level. The establishment of this law quickly led to an enormous rise of enterprise unions, which at a higher level were organized in labor union federations. The number of labor union federations (called labor unions from now on) increased from just one during the New Order (namely, SPSI) era to 61 at the end of 2001. These labor unions represented approximately 11,000 companies and had 11 million members.⁴⁵⁴ The largest and most important labor unions were the Konfederasi Serikat Pekerja Seluruh Indonesia (FSPSI), chaired by Jacob Nuwa Wea and

⁴⁵¹ Caraway, 2004.

⁴⁵² Manning, 2008.

⁴⁵³ See Manning (2008) and Van der Eng (2004), “Business in Indonesia: Old Problems and New Challenges”; see also Sri Kusumastuti Rahayu and Sudario Sumarto, “The Practice of Industrial Relations in Indonesia”, 2003, SMERU Research Team, March, pp.5-6.

⁴⁵⁴ See SMERU, “Industrial Relations in Jabotabek, Bandung, and Surabaya During the Freedom to Organise Era”, May 2002, p.24. Data are from the Directorate General of Inspections and Supervision (Binawas), Department of Manpower and Transmigration, 2001, and Minister of Manpower and Transmigration Briefing at the Tripartite National Dialogue with the Association of All Indonesia Workers Union in Kabupaten/Kota, city of Bekasi, 23 November 2001.

representing about 6,240 enterprise unions; Dewan Executif F-SPSI Reformasi, chaired by Andi Hisbulin P and representing 3,150 enterprise unions; Federasi Serikat Buruh Demokrasi Indonesia (FSBDSI), chaired by A. Azis Riambo SH and representing 121 enterprise unions; and Serikat Buruh Sejahtera Indonesia (SBSI), chaired by Muchtar Pakpahan and consisting of 229 enterprise unions. In Table 3 in the appendix the full list of all labor unions (in 2001) is given.

So, one important implication of Trade Union Law No. 21/2000 was that it led to an expansion of organized labor and thus a much stronger pressure on the government to take into account labor demands as compared to the pressure from labor during the New Order regime, when labor was very poorly organized.

Meanwhile, the controversy over Manpower Law 25/1997 led to the passing of two laws, the aim of which was to postpone implementation. In the end, the 1997 Law was not to be implemented until October 2002.⁴⁵⁵ This gave room for drafting a totally new labor law that aimed at gaining the support from all parties involved, in particular labor unions and business associations.

7.4 Ministerial Decree No. 150/2000

As discussed above, during the Soeharto regime the government used the issuance of ministerial decrees as a way to circumvent existing labor laws, enabling them to use these laws in a way that best suited the interests of the Soeharto government and/or the business sector.⁴⁵⁶ After the fall of Soeharto, the government again used decrees, though this time it seemed for different reasons. One of the most controversial decrees was Ministerial Decree No. 150/2000 (also known as Kep-150), which focused on industrial relations disputes and dispute resolution. This decree was established as a temporary solution in anticipation of the drafting of a new labor law.

Ministerial Decree No. 150/2000 was launched in April 2000 and became effective on 20 June of the same year. Decree No. 150/2000 covered a number of aspects related to 'The Settlement of Employment Termination and Determining the Payment of Severance Pay, Long Service Pay, and Compensation in Firms'. The decree contained several remarkable changes with respect to existing labor laws, particularly with respect to the Ministry of Manpower regulation No. 3/1996. Decree No. 15/2000 was supposed to replace this regulation from the Soeharto era, which had had only little impact on regulating disputes and dispute resolution between business and labor. First, employees who resigned or who were sacked because they were found guilty of

⁴⁵⁵ Ford, 2004.

⁴⁵⁶ In total 197 decrees were issued during the Soeharto regime, all favoring government and business (*Nikkei Weekly*, 25 June 2001, cited in Caraway (2004)).

serious offense⁴⁵⁷ were entitled to a payment based on the length of their time with the company (i.e. length of service pay). Second, the maximum period for severance pay was increased from five to seven months of salary, whereas the length of long service pay was increased from six to ten months of salary. Third, employees were entitled to receive long service payment if they had served a minimum of three (instead of five) years. Finally, employers who temporarily suspended employees had to pay 75 (instead of 50) per cent of the salary until the industrial disputes resolution committee reached a decision.⁴⁵⁸

These changes obviously favored labor. With these new rules, it became more difficult and more costly for employers to dismiss employees. The launching of this labor-friendly decree was undoubtedly affected by the increasing influence of labor movements and labor unions. Given the new political constellation, it was felt that after the Soeharto period in which labor had been repressed, it was now time for change. Moreover, labor was affected strongly by the Asian crisis, giving way to increased pro-labor regulation as this would reduce the likelihood of increasing unrest within society. In addition, in 2000, when the decree was introduced, Bomer Pasaribu was the Minister of Employment. He had been a leading figure in the labor movement. This may have been one of the reasons why the contents of the decree appeared to be favoring labor interests.⁴⁵⁹

When the decree was launched, the business community strongly criticized it. Criticism was aimed at the fact that the decree did not take into account business interests. According to the business community, it would lead to an impossibly high financial burden for many companies, at a time when the Indonesian business sector was much affected by the Asian crisis. The decree would strongly reduce Indonesia's attractiveness to foreign investors and would lead to relocation of industries to neighboring countries. Some business representatives accused the government of using this decree to improve its image among labor.⁴⁶⁰ Others pointed out that these new rules were added to the problems Indonesian business (domestic as well as foreign) already had to deal with, such as the high costs of the bureaucracy and a weak institutional environment. It was stressed that important industries such as the shoes, electronic and textile industries were relocated to other countries such as China and Vietnam, mainly because of a weak institutional environment (such as weak

⁴⁵⁷ For example, by '... carelessly or intentionally causing damage, harm or leaving any goods belonging to the employer in poor condition'; see Article 18 of the decree.

⁴⁵⁸ Table 4 in the appendix covers an overview of the contents of Ministerial Decree No. 15/2000 as compared to Ministry of Manpower regulation No. 3/1996 with respect to determining payment of severance, long service pay and compensation in firms.

⁴⁵⁹ In an interview Pasaribu did acknowledge that after years of decrees that mainly favored the government and business, the time had come to turn to labor, also because there was fear of social unrest due to massive unemployment following the Asian crisis (Caraway, 2004).

⁴⁶⁰ *Jakarta Post*, 20 April 2001, cited in Caraway (2004).

law enforcement), high corruption, security problems, and rising costs of labor.⁴⁶¹ It was said that due to the weak institutional environment, the high levels of corruption, the security problems and the rising labor costs, about 50 textile industries had already been moved to Cambodia and Vietnam.⁴⁶² The new labor laws would make it very hard, if not impossible, for many companies to survive the painful economic situation Indonesia experienced during the turn of the century.

The business association for the shoes industry, Aprisindo (Asosiasi Persepatuan Indonesia), was one of the first to criticize the decree, pointing out the negative effects for business in general and for the shoes industry in particular. Although the association was relatively small, it still had a lot of influence within the Indonesian business sector, because of the charismatic secretary-general Djimanto and Chairman Anton Supit, who put Aprisindo at the centre of many discussions about state-business relations.⁴⁶³ The criticism of this business association was soon adopted by other associations, such as the Union of Indonesia Export Companies,⁴⁶⁴ led by secretary-general Toto Dirgantoro, by the Indonesian Apparel Manufacturers Association (AAMI) and the Indonesian Toy Business Association (APMI), and by the director of the Indonesian Textile Association API (Asosiasi Pertekstilan Indonesia), Benny Soetrisno.⁴⁶⁵

Apindo, the Indonesian Employers' Association, also criticized the decree and recommended the government to revise.⁴⁶⁶ Similar demands were voiced by Kadin at various occasions. At various occasions Kadin recommended revising

⁴⁶¹ Data collected by the World Bank on the quality of the institutional environment for 214 countries in 2000 actually seem to support this view. In a sample of 188 countries for which information about the quality of the rule of law (measured as perceptions of the extent to which agents have confidence in and abide by the rules of society, and in particular the quality of contract enforcement, property rights, the police, and the courts, as well as the likelihood of crime and violence) was available, Indonesia ranked number 160 – just above Togo and Burundi. With respect to regulatory quality (measured as the ability of the government to formulate and implement sound policies and regulations that permit and promote private sector development) the same dataset shows that Indonesia ranked number 125 of the 188 countries for which data were available: just below the Ivory Coast and just above the Kyrgyz Republic. Finally, with respect to control of corruption Indonesia is one of the worst performers of all countries in the dataset, ranking number 166 of the 187 countries for which data were available. See Kaufmann, Kraay and Mastruzzi, *Governance Matters IV: Governance Indicators for 1996-2004*, World Bank, 2005.

⁴⁶² See *Business News*, 26 January 2001.

⁴⁶³ Djimanto and Anton Supit were often invited for public discussions with labor unions and the government.

⁴⁶⁴ Gabungan Perusahaan Eksportir Indonesia.

⁴⁶⁵ *Kompas*, 24 June 2001, “Nasib Buruh Memperpanjang Daftar Keluhan Sektor Usaha”, in *Industrial Relations in Jabotabek, Bandung, and Surabaya During the Freedom to Organize Era*, Smeru and USAID/PEG, May 2002, p.18.

⁴⁶⁶ *Suara Pembaruan*, 27 January 2001.

Ministerial Decree No. 150/2000:⁴⁶⁷ in January 2001 the chairman of the Kadin Department of Public Policy, Fadel Muhammad, was one of the first Kadin officials who strongly recommended the government to revise Ministerial Decree No. 150/2000,⁴⁶⁸ and also Aburizal Bakrie, chairman of Kadin, openly complained about the adverse impact of the decree on business.⁴⁶⁹ In a more elaborated reaction to the launch of the decree, the Kadin chairman of the special task force for manpower issues,⁴⁷⁰ Hasanuddin Rachman, stated that according to Kadin 27 articles of the 37 articles of the decree needed to be changed.⁴⁷¹ Of these articles seven needed to be revised completely.⁴⁷² These articles dealt with issues such as payment to employees in case of voluntary resignation, housing, and the rule that business should pay 75 per cent of salary in case of dismissal. With respect to this last issue, Rachman argued that the old rule of 50 per cent was fair enough. Moreover, he argued that long service payments should stop after six months as was the situation before the decree was launched, instead of it being extended to ten months. Especially the item referring to the rule that employers had to pay employees who voluntarily resigned met with a lot of resistance among the business people.

The above discussion clearly shows that among representatives of the business sector, there was a general consensus that Ministerial Decree No. 150/2000 harmed the interests of Indonesian business. Business representatives insisted that the decree should be replaced, or at least revised, in order to improve the balance between the interests of labor and business. Kadin and its representative in labor affairs, Apindo,⁴⁷³ played a pivotal role in voicing the complaints. The consensus among businessmen on this issue was one of the few occasions in which Indonesian business seemed to speak with one voice. In many other cases, and at least with respect to the cases discussed in Chapters 5 and 6, such a consensus was lacking due to conflicting interests of different subclasses of businessmen. The strong consensus of business on the issue of Ministerial Decree No. 150/2000 also allowed Kadin to play an important role as a representative of business interests. Perhaps for the very first time, Kadin was actually functioning as the peak organization representing business interests.

⁴⁶⁷ “Sikap Resmi Apindo, dan Kadin Indonesia, Kompartemen Antar Lembaga Ketenagakerjaan”, Jakarta, 9 April 2001; see also *Business News*, 26 January 2001.

⁴⁶⁸ *Bisnis Indonesia*, 25 January 2001.

⁴⁶⁹ *Bisnis Indonesia*, 4 April 2001.

⁴⁷⁰ Pokja Ketenagakerjaan Kadin Indonesia; ‘pokja’ is short for ‘kelompok kerja’, which can be translated as working group set up to accomplish specific tasks. This special task force was installed by Kadin to formulate a formal reaction to the launch of the decree.

⁴⁷¹ *Suara Pembaruan*, 27 January 2001.

⁴⁷² The articles that were heavily criticized were the following: article 15 (clause 1), 16 (clauses 1 and 4), 18 (clauses 3 and 4), 19 (clause 3), 21, 22, and 26.

⁴⁷³ See Chapter 4 for a detailed discussion of the relationship between Kadin and Apindo.

Because of the strong and widespread opposition by Kadin and sectoral business associations against Ministerial Decree No. 150/2000, the government decided to revise and replace the decree. The government became more and more convinced that the institutional climate for (foreign) investors had to be improved and that the reallocation of various industries to countries like China and Vietnam had to be stopped. This change was possible especially after the Minister of Manpower and Transmigration, Bomer Pasaribu, was replaced by Hamdi Al Hilal. The new minister was more pro-business, and this clearly increased opportunities for business and for Kadin to successfully raise its voice and demand changes to the decree. The government made its intentions of revision public in November 2000. Kadin made it clear⁴⁷⁴ that it wanted to be involved in the process of revising the decree in order to be able to influence decision making regarding labor policies and to defend business interest.⁴⁷⁵

7.5 Labor Opposition against Revising Ministerial Decree No. 150/2000

When the government announced its intentions to revise and replace Ministerial Decree No. 150/2000, several labor organizations were strongly opposed to this and immediately mobilized their organizations to make their wishes heard with both business and the government. The two most influential (and independent) labor organizations FSPSI⁴⁷⁶ (All Workers Labor Union) and SBSI⁴⁷⁷ (Indonesian Welfare Labor Union) were among these organizations.⁴⁷⁸ They advised the government not to revise the decree, but only provide additional explanations with respect to some articles. Some individual labor representatives also were opposed to the government's intentions to replace the decree. Among those who openly expressed their discontent with the government's policy were influential labor union officials like Jacob Nuwa Wea, chairman of FSPSI, Andi William Sinaga, the public relations officer of the National Board of SBSI (DPP-SBSI),⁴⁷⁹ Kus Haryanto, secretary of the Tripartite Department of SBSI, Muchtar Pakpahan, chairman of SBSI, and Raswan Suryana, secretary-general of SBSI.

Raswan Suryana was against the government's intentions of revising the decree, because according to him the potential dangers as perceived by business in terms of industrial relocation to neighboring countries were not because of the new labor legislation, but mainly because of the weak institutional

⁴⁷⁴ As expressed for instance by Pungky Bambang Purwadi, the then chairman of Kadin-DKI.

⁴⁷⁵ Kadin Daerah Khusus Ibukota or the regional (Jakarta) branch of Kadin.

⁴⁷⁶ Federasi Serikat Pekerja Seluruh Indonesia.

⁴⁷⁷ Serikat Buruh Sejahtera Indonesia.

⁴⁷⁸ *Kompas*, 9 February 2001.

⁴⁷⁹ Dewan Pengurus Pusat SBSI.

environment and the related high level of corruption in the bureaucracy, leading to forceful constraints on and high costs for doing business in Indonesia. He argued that therefore the remedy to the problem of industrial relocation was not to revise Ministerial Decree No. 150/2000, but to combat bureaucracy and corruption.⁴⁸⁰ Jacob Nuwa Wea was also against any revision.⁴⁸¹ His opinion actually had great weight among labor, since he was not only chairman of the influential FSPSI but also a member of the PDI-P,⁴⁸² at the time the dominant political party in parliament. In his view the government should go no further than to provide additional explanations to some of the articles of the decree, instead of revising the drcrece. This view was supported by the secretary of the Tripartite Department of SBSI, Kus Haryanto.

As is shown by the above discussion, the intentions of the government to revise Ministerial Decree 150/2000 met with strong opposition from labor. Regarding the labor law policies, the government had to maneuver between different interests in society. This was a major change for policymakers in Indonesia as compared to the situation during the New Order, when the President and the cabinet could simply make decisions without consulting society. Clearly, this was no longer possible in the new situation after 1998.

7.6 Labor Laws are Changed Again: Ministerial Decrees 78/2001 and 111/2001

In spite of labor's strong opposition, the government yielded to the views of the business sector and decided to revise the contents of Ministerial Decree No. 150/2000. On 4 May 2001, Minister Hamdi Al Hilal launched Ministerial Decree No. 78/2001, which was to replace Decree No. 150/2000.⁴⁸³ Whereas No. 150/2000 was clearly pro-labor, No. 78/2001 signified a clear set-back of labor rights. The decree contained major revisions of articles of Decree No. 150/2000 that were considered most problematic by the employers.⁴⁸⁴ The labor

⁴⁸⁰ *Suara Karya*, 2 February 2001; *Kompas*, 9 February 2001.

⁴⁸¹ See Jacob Nuwa Wea's statement during a panel discussion organized by F-PDIP (Fraksi Partai Demokrasi Indonesia Perjuangan) in Jakarta in February 2001.

⁴⁸² See Chapter 3 for a discussion of the political parties of Indonesia since 1997. PDI-P was the new PDI that emerged after severe internal conflicts and incidents, inflicted by interventions of the state (27 July 1997). PDI became into PDI-P (Partai Demokrasi Indonesia Perjuangan) led by Megawati Soekarnoputri, daughter of the late Soekarno.

⁴⁸³ Ministerial Decree No. 78/2001 issued by the Minister of Employment and Transmigration.

⁴⁸⁴ In particular Ministerial Decree No. 78/2001 was changed with respect to the following articles: article 15 (clause 1), 16 (clauses 1, 2 and 4), 17, 18, 26 and 35. It did not make changes with respect to some pressing demands from business to also change articles 19, 21 and 22, however. See Appendix table 4 for a comparison between Ministerial Decree No. 150/2000 and No. 78/2001. See: SMERU, *Industrial Relations in Jabotabek, Bandung, and Surabaya During the Freedom to Organize Era*, May 2002, pp.19-20.

unions, however, did not want to accept the changes because of this set-back of rights. Moreover, the changes were made by the government without consulting the unions. As a reaction to the launch of the decree therefore, some labor unions organized strikes. In East Java, for example, FSPSI organized a strike on 21-23 May.

After the launch of the decree the minister delayed implementation, hoping that labor representatives could be convinced of the need for the changes. Although Minister Hamdi Al Hilal reiterated his view that the measures were taken in the national interest and were needed to stop unemployment figures from rising, he offered to partially revise Ministerial Decree 78/2001.⁴⁸⁵ On 16 May 2001, a *Surat Edaran* was published,⁴⁸⁶ which led to a delay of 14 days of the implementation of Decree 78/2001. However, the unions were not satisfied with the revision since it did not substantially change the policy. So, when the government failed to convince the unions of the need for the changes, the decree came into force on 31 May.

On this last day of May 2001, the minister launched Decree No. 111/2001, along with Ministerial Decree 78/2001.⁴⁸⁷ By launching this complementary decree, the government made it possible for companies to formulate their own internal regulations regarding some of the labor regulations that were so controversial. These internal regulations could overrule official regulations in certain circumstances. Thus, the launching of Decree No. 111/2001 was to be seen as a compromise between the opposite positions of labor and business in the hope that the conflicts between both parties could be reduced. Soon, however, this strategy turned out to be unsuccessful. Replacing Ministerial Decree No. 150/2000 by Decrees No. 78 and No. 111 did not end the business-labor conflicts at all.

Putting into force Ministerial Decree No. 78/2001 led to strong reactions from labor. Everywhere in the country, massive protests and rallies were organized and demanded the restoration of Decree No. 150/2000. In early June, the office of the local governor in East Java was besieged by thousands of protesting workers.⁴⁸⁸ About 38,000 workers in Purwakarta, West Java, threatened to deploy massive rallies as a protest against the government and demanded the resignation of the Minister of Manpower and Transmigration, Al Hillal.⁴⁸⁹ In Semarang, East Java, a large number of labor unions and other civil society organizations joined forces and demanded the withdrawal of Decree No.

⁴⁸⁵ As a compromise to satisfy labor demands, he revised Article 35A of Ministerial Decree No. 78/2001 on the compensation to be paid to employees who are accused of misbehavior.

⁴⁸⁶ *Surat Edaran* No. 151.SB.01.13.2001.

⁴⁸⁷ See Eggi Sudjana, "Peraturan Pekerja Peraturan Buruh 2000-2002", 2002, Durat Bahagia, Jakarta, pp.75-77; also see appendix table 4 of this chapter for a comparison between Ministerial Decree No. 15/2000 versus Ministerial Decrees No. 78/2001 and No. 111/2001.

⁴⁸⁸ *Suara Karya*, 6 June 2001, and *Koran Tempo*, 8 June 2001.

⁴⁸⁹ *Koran Tempo*, 16 May 2001.

78/2001. In Samarinda, East Kalimantan, thousands of laborers went on strike, and about 500 representatives went to the local government office to demand the cancelation of the decree.⁴⁹⁰ In Medan on Sumatra, protests were organized against the government's labor policies, again mobilizing thousands of protesters.⁴⁹¹

At various occasions, local authorities seemed inclined to give in to the demands of the protesters. As discussed in Chapter 3, after the decentralization policies, which had started with the establishment of Law No. 22/1999 on 'Local Autonomy and Law,' local authorities had obtained the power to decide on these matters at the local level. Thus, for example, workers' representatives in East Kalimantan had a meeting with the local parliament, which was attended by representatives of the Indonesian Employers' Association Apindo. In response to the labor rallies, the vice-governor of East Kalimantan, Yurnalis Ngayoh, promised to send a formal letter to all business enterprises in the region asking them to restore Ministerial Decree No. 150/2000. When in Tangerang, West Java, thousands of labors organized a rally demanding the cancellation of Decree No. 78/2001, the mayor canceled the decree and restored Decree No. 150/2000.⁴⁹² In a short period of time, local authorities of 19 different regions decided to cancel Decree No. 78/2001 and restore No. 150/2000.

Meanwhile, business representatives kept on raising their voices during the period of massive labor protests. Again, Apindo played a leading role. Prominent representatives of this organization such as Djimanto and Anton Supit⁴⁹³ reiterated their criticism on the Ministerial Decree No. 150/2000.⁴⁹⁴ According to Anton Supit, the revisions in Decree No. 78/2001 did not go far enough to solve the problems the business sector had with Decree No. 150/2000. Of course, this was like pouring oil on the fire, making the conflict over the decree between labor and business even more intense. In the media the conflict between business and labor about the decree received a lot of attention. In most cases, the claims made by labor were supported. The way the media covered the conflict expressed the widely felt belief that after the fall of Soeharto the government should become more responsive to labor demands in general.

⁴⁹⁰ *Kompas*, 2 June 2001.

⁴⁹¹ *Koran Tempo*, 12 June 2001.

⁴⁹² *Media Indonesia*, 22 May 2001.

⁴⁹³ As mentioned above, Djimanto and Supit were both leading figures in Aprisindo, the Indonesian association for the shoe industry. Because they both were charismatic business leaders, they were asked to play an active role in Apindo as well. Djimanto was vice-chairman and Supit a regular member of Apindo.

⁴⁹⁴ *Suara Pembaruan*, 15 June 2001.

7.7 The Business-Labor Conflict Continues

Both labor and business were unhappy with the situation as created by the government and its policy on establishing labor rights. Soon after issuing Ministerial Decrees No. 78/2001 and 111/2001, Jacob Nuwa Wea, chairman of FSPSI, recommended that the government should withdraw both decrees because of the escalation of labor rallies, which at times became violent.⁴⁹⁵ This recommendation was supported by Bomer Pasaribu, the former Minister of Employment and Transmigration, who had issued Decree No. 150/2000. Bomer Pasaribu argued that both decrees were rejected in 19 regions anyway. He also stressed that both decrees violated higher legislation, referring to Labor Law No. 12/1964 which specifically dealt with employment termination in private firms (see Table 1 in the appendix), as a decree has a lower legal status than a law.⁴⁹⁶ Finally, he argued that the contents of Decree No. 150/2000 were temporary only. As soon as the new labor law would be ratified by the parliament, the regulations of the decree would be replaced anyway. So, why not withdraw the decrees and wait for the new law?

The chairman of DPP-FSPSI,⁴⁹⁷ Hikayat Atika Karwa, recommended postponing the implementation of the two ministerial decrees until the new labor law was ratified by parliament. At the same time, the labor movement organized new rallies in Bandung, Surabaya and Jakarta.⁴⁹⁸ On 11 June 2001, labor demonstrated at the Presidential and vice-Presidential palace in Jakarta.⁴⁹⁹ Moreover, labor rallies were organized in Surabaya and Medan. Meanwhile, labor unrest intensified in Bandung and in Kediri at Gudang Garam, a major cigarette factory. A popular protesters' slogan was 'down with Ministerial Decree 78/2001, it is favoring business and undermining labor'.⁵⁰⁰ On 13 June 2001, unrest grew even more when a mass rally was organized in Jakarta during which the demand to cancel Decree No. 78/2001 was supported by the local parliament of Jakarta and by the governor of the DKI-Jaya, Sutiyoso. A similar move was made by the local authorities in Surabaya. Also in Batam, authorities took the initiative to postpone the Ministerial Decree No. 78/2001.⁵⁰¹ Here, the argument was that this decree (instead of Decree No. 150/2000) was jeopardizing foreign investment, as these foreigners threatened to leave the

⁴⁹⁵ *Media Indonesia*, 16 June 2001.

⁴⁹⁶ John Handol ML, an influential businessman, also stressed that Ministerial Decrees No. 78/2001 and 111/2001 violated Law No. 12/1964; see *Suara Karya*, 26 July 2001, John Handol ML, "Buruh Terjepit Undang-Undang".

⁴⁹⁷ DPP-FSPSI represents the FSPSI labor organisation at the national level.

⁴⁹⁸ *Republika*, 14 June 2001.

⁴⁹⁹ Again, the protest focused on the rising prices and insufficient labor rights.

⁵⁰⁰ "Cabut Kep 78/2001, Pengusaha Dienakin, Buruh Dicuekin".

⁵⁰¹ *Bisnis Indonesia*, 15 June 2001.

country due to labor unrest.⁵⁰² On 13 and 14 June 2001 labor demonstrations in Bandung and in Sidoarjo turned violent. Several incidents between demonstrators and the police were reported. In Bandung the local authorities announced that Ministerial Decree No. 78/2001 would be postponed. To some people these steps seemed justified, since it reduced labor unrest and its destructive effects on the economy and stability of society; to others they were a testimony of weakness and policy inconsistency.

The government tried to respond very carefully to these demands of both labor and business. In doing this, it took into account the fact that the decrees were to be elements of a process towards the establishment of a new labor law. The secretary-general of the Ministry of Manpower and Transmigration claimed that the two decrees should be seen as products of tripartite negotiations, involving business, labor and the government.⁵⁰³ Because of this the decrees had to be acknowledged by all parties involved.

The opinion of President Wahid played an important role as well.⁵⁰⁴ According to him, Ministerial Decree No. 150/2000 should be replaced by Decrees No. 78 and 111/2001, because of the negative impact Decree No. 150/2000 was expected to have on foreign direct investment.⁵⁰⁵ At the same time, he suggested some modifications to the implementation of the decrees. In particular, those regions or companies that had already successfully implemented Ministerial Decree No. 150/2000, could continue to use this decree. For the remaining regions and companies, labor should be allowed to propose recommendations for a pro-labor policy.⁵⁰⁶ His position on the decrees was opposite to those of many local governments and of the national parliament, which was to restore Decree No. 150/2000. Apparently, his position was also not influenced by the continuing and increasing labor rallies.

Mainly because of labor unrests, parliament – by way of Committee VII,⁵⁰⁷ a parliamentary committee that specifically deals with industrial relations

⁵⁰² The general manager of Batamindo Industrial Park in Batam, John Sulistyawan, stated that inflows of foreign investment were mainly determined by three factors: security; law and order; and peaceful labor-business relations. He supported the rejection of the Ministerial Decree No. 78/2001 to avoid labor rallies in Batam.

⁵⁰³ This claim was contested by many people; see e.g. Jacob Nuwa Wea's interventions during a meeting of Committee VII of parliament, to be discussed later in this section.

⁵⁰⁴ Although the influence of the president in Indonesia was weakened very much after the reformasi, the voice of the president still mattered. It did occur sometimes that the opinions of the president and governmental officials diverged. This was also the case regarding the question whether or not Ministerial Decree No. 150/2000 should be restored.

⁵⁰⁵ *Media Indonesia*, 13 June 2001; *Bisnis Indonesia*, 13 June 2001.

⁵⁰⁶ This was mentioned in the meeting between the president and labor representatives of the DPP (Dewan Pengurus Pusat) of Federasi Serikat Pekerja Seluruh Indonesia (FSPSI) and nine members of DPD (Dewan Pengurus Daerah) in the presidential palace.

⁵⁰⁷ Ketenagakerjaan Komisi VII DPR.

– finally recommended to restore Ministerial Decree No. 150/2000.⁵⁰⁸ To support this decision, Hadi Wasikun, a member of Committee VII, referred to the fact that 65 enterprise unions, local parliaments, governors and vice-regents had officially rejected Ministerial Decree No. 78/2001. So, there seemed to be strong support for this decision, at least among labor and local governments. Of course, Kadin and a large number of business associations remained strongly against restoring Ministerial Decree No. 150/2000. At the same time, however, although Ministerial Decree No. 78/2001 was more in line with their interests, they were not very satisfied with this decree either. Only Aprisindo explicitly welcomed this decree to avoid further labor turmoil. The chairman of the labor union FSPSI, Jacob Nuwa Wea, who was also a member of the committee and a leading figure in PDI-P, argued that Ministerial Decree No. 78/2001 was not the outcome of representative tripartite negotiations between business, labor and the government anyway, and should therefore be withdrawn.

Meanwhile, the support labor gained from local governments seemed to help reduce labor protests at least to some extent. For instance, in Sidoardjo, East Java, vice-regent Saifullah, agreed to restore the Ministerial Decree No. 150/2000 because of the devastating effects of the labor rallies. As a response, the chairman of the FSPSI branch in Sidoardjo, Dikdik Bagio Utomo, stopped the rallies. In Semarang, the vice-chairman of the FSPSI branch of East Java, Sitompul, expressed his appreciation for the local government which had sent orders to 35 regents and mayors in East Java to restore Decree No. 150/2000.

The conflict between business and the labor movement on the new labor legislation also led to reactions and discussions from the public. One of the main issues that were discussed dealt with the growing importance of tripartite deliberations between the business sector, labor unions, and the government.⁵⁰⁹ Among those who were stressing the importance of such a tripartite mechanism were Hadi Soestastro, executive director of CSIS,⁵¹⁰ Julius Rizaldi,⁵¹¹ chairman of the central board of the Association of Indonesian Lawyers DPP-Ikadin,⁵¹² and James Castle,⁵¹³ chairman of the American Chamber of Commerce in Jakarta, who suggested to change the existing paradigm of perceiving labor, business and government as conflicting parties into a new paradigm where the

⁵⁰⁸ *Kompas*, 14 June 2001.

⁵⁰⁹ Sri Kusumastuti Rahayu and Sudario Sumarto, "The Practice of Industrial Relations in Indonesia", by SMERU Research Team, March 2003, pp.16-20.

⁵¹⁰ Centre for Strategic and International Studies, a leading research institute in Jakarta, where many national and international meetings are held.

⁵¹¹ *Bisnis Indonesia*, 8 July 2001, "Solusi Meredam Perseteruan antara Pengusaha dan Buruh".

⁵¹² DPP-Ikadin: Dewan Pengurus Pusat Ikadin.

⁵¹³ *Suara Pembaruan*, 19 July 2001, "Keharmonisan antara Pekerja dan Pengusaha".

parties are partners⁵¹⁴ rather than rivals. Developing a tripartite mechanism would improve information exchange and create an understanding for each other's positions and views. This would help decision making with respect to difficult issues like labor rights, which would be supported by all three participants.

Before 1998 and in the early years of the reformasi, most business-labor disputes were settled by bipartite negotiations between employers and employees.⁵¹⁵ In 2000 and 2001, however, at a regional level several business-labor disputes were solved by setting up a tripartite forum of labor, business and local government. This was the case, for instance, in Bekasi in 2001 on minimum wages, in Surabaya in 2000 on various issues, and in Tangerang in 2000 on the raise of oil prices.

Yet, other participants in the public debate continued to emphasize that labor right policies were not the main issues in Indonesia. Bomer Pasaribu, the former Minister of Manpower and Transmigration, frequently stated that the crucial issues were security and political instability, and related to these the high level of investment risk. In terms of labor, he said, Indonesia was still attractive because of the lower wages in comparison with neighboring countries such as Malaysia and Thailand. According to Dikdik Rachbini,⁵¹⁶ the major problem in Indonesia was the mismanagement of economic resources and corruption. Efforts to solve these problems were prerequisites for solving labor-business problems. Notwithstanding these critical remarks, labor rights reforms remained high on the agenda in Indonesia.

7.8 Towards the Manpower Law of 2003

After the labor rallies had turned violent mid-June 2001, Vice-President Megawati Soekarnoputri charged the co-ordinating Minister for Social, Political and Security Affairs, Agum Gumelar, with the task of co-ordinating efforts to settle labor-business disputes. Clearly, the government realized it was time for some serious action in order to solve the problems regarding labor rights. In particular, it had come to the conclusion that the conflict could only be solved

⁵¹⁴ See also Paulus C. Nitbani, who comments on the communication problems between the partners, which have to be overcome; see *Suara Pembaruan*, 10 June 2001, "Kepmennakertrans Nomor 78 Tahun 2001: Mempersoalkan Nasib Buruh dan Pengusaha".

⁵¹⁵ Examples are the long-lasting disputes in Bogor on labor demands, the disputes in Surabaya (in 1994, 1996, 1998, and 2000) on various issues and the widespread disputes on factory automation in 1996.

⁵¹⁶ Dr. Dikdik Rachbini from the Economics Department of Universitas Indonesia, also a member of Committee VI of parliament, is a leading economist in Indonesia, who is often invited by the media and at governmental meetings to give his views on numerous economic issues.

by co-ordinated action involving both labor and business representatives, which should work together with the government.

On 15 June 2001, a meeting was held chaired by Agum Gumelar. Present were the Minister of Manpower and Transmigration, Al-Hilal Hamdi, and representatives of three business associations and 18 labor unions. The meeting was meant as a first attempt to establish a representative tripartite committee consisting of representatives of business associations, labor unions and the government. The committee would discuss labor-business problems and make suggestions to the Minister of Employment and Transmigration on how to solve them. During the meeting it was decided to postpone the implementation of Ministerial Decree No. 78 and No. 111/2001 and to restore Decree No. 150/2000 for a month – until the new tripartite committee had been established.⁵¹⁷

The initiative to establish a tripartite committee was brought up at a meeting in Geneva during the 89th ILO (International Labor Organization) Conference, which was held from 5 to 21 April 2001.⁵¹⁸ The meeting was convened by the Indonesian Ambassador with the UN in Geneva to discuss the labor-business tensions in Indonesia. Representatives from both labor and business were present at this meeting.⁵¹⁹ Since the conflicts over the new labor legislation had turned so violent, all parties realized that a solution to the conflict was absolutely necessary. Companies were afraid of losing their business and losing out on foreign economic and financial support. Both were indispensable to recover from the economic crisis in business since 1998. Labor on their part realized that continuing the conflict would eventually hurt workers, as it could lead to massive unemployment if the crisis were to continue or even intensify. The fact, therefore, that both representatives of business and labor were present in Geneva showed that the initiative to actively develop a tripartite mechanism to solve business-labor disputes was supported by both sides.

In the Indonesian context, tripartite deliberation was not an unknown phenomenon. Actually, already during the New Order tripartite deliberations were used in business-labor relations, at least officially. The principle of these deliberations fitted into Pancasila, in which communalism and togetherness were prominent. In practice, however, these deliberations did not involve real co-operation between the parties involved since, as is already discussed, labor was effectively suppressed. In this context, the ideology was used as an

⁵¹⁷ *Republika*, 16 June 2001.

⁵¹⁸ *Suara Pembaruan*, 16 June 2001.

⁵¹⁹ The business sector was represented by Suparwanto from Apindo, the government by Edison Situmorang, and the labor unions by Andre Maramis (from DPP-FSPKP), A. Kusumanegara (from DPPS Arbumusi), Ferry Julyantono (DPP-Gabungan Serikat Pekerja Merdeka Indonesia/Gaspermindo), Timboel Siregar (adviser), HL Amri (DPP-SPNI), Miyadi Suryadi (Gaspermindo Baru), Sultan Meranjat (SRI), Rekson Silaban (DPP-Serikat Buruh Sejahtera Indonesia/SBSI), and Haryono (KNPI).

argument to stress that labor was not supposed to organize strikes and protests as this would run against the principles of communalism and togetherness. Interestingly, in the new political setting after the reformasi, the Pancasila principles finally seemed to be effectuated and seemed to be helpful in solving business-labor disputes regarding the new labor law.

Initially, however, the establishment of the tripartite committee (*Tripartite Nasional*) failed, due to the inability of labor to select its representatives.⁵²⁰ The largest labor union FSPSI (by way of its chair Jacob Nuwa Wea) wanted to adopt different criteria of representation than the other labor unions. In particular, while the FSPSI preferred the proportional system which would benefit the biggest union, the medium-sized and small unions preferred the coalition system, which would give all unions equal representation. This led to an impasse as no decision on this matter was taken, which meant that after one month the committee was still not established. As was decided at the meeting of 15 June Decree 78/2001 was to be restored. On 17 July 2001, Jacob Nuwa Wea challenged the Minister of Manpower and Transmigration by suggesting that Ministerial Decree No. 78/2001 should not be restored, but instead Decree No. 150/2000 should remain effective until parliament had formulated the new labor law. Yet, Minister Al-Hilal Hamdi found it too risky to postpone the restoration of Ministerial Decree No. 78/2001 because of the perceived negative impact of Decree No. 150/2000 on business.⁵²¹

The situation changed when at the end of July 2001 Megawati Soekarnoputri became the new President of Indonesia. During her Presidential campaign she claimed that during her presidency she would strive for improving the position of the poor and the blue collar workers. This was reflected in her choice of the people who became cabinet members. With respect to labor issues, she made an important decision by replacing Al Hillal Hamdi, who as Minister of Manpower and Transmigration had been favoring business interests more than those of labor; as the new minister she appointed Jacob Nuwa Wea, the leading labor representative and a former member of parliament for the PDI-P (Megawati's party). The fact that he had a background as a leading labor representative, plus the fact that he was a member of Megawati's party made him the best candidate for this position.

The impact of this decision became obvious right away. On 10 August 2001, the new Minister of Employment and Transmigration stated that Ministerial Decree No. 150/2000 would continue to be effective until another policy protecting labor interests was established. Obviously, business associations were not happy with this decision. The new minister also announced he would start an investigation into the question to what extent

⁵²⁰ *Kompas*, 10 July 2001, see also *Media Indonesia*, 27 June 2001.

⁵²¹ *Suara Karya*, 12 July 2001.

Decree No. 150/2000 affected the move of industries from Indonesia to neighboring countries. Finally, he expressed his intentions to improve communications with Kadin and Apindo.

This sudden change in the political landscape together with the rather violent labor rallies of the past few months meant that the role of Kadin and other business associations in the business-labor disputes came under great pressure. The restoration of Ministerial Decree No. 150/2000 in fact implied the end of the disputes between business institutions and labor, at least for the time being. Business had lost the battle and had to wait for new opportunities to voice their interests and influence decisions regarding labor rights to support these interests. All attention now focused on parliament's preparations of the draft of a new law on the settlement of business-labor disputes. The business associations had no other option than to refocus their efforts and participate in the preparations of the new law as much as possible.

7.9 Drafting the Manpower Law of 2003

As mentioned before, the last time labor rights law had been ratified by parliament was in 1997 (Law No. 25/1997).⁵²² However, this law met with strong opposition from labor and was therefore postponed on 1 October 1997 until October 2002. So, formally at least, Labor Law No. 22/1957 on labor dispute settlement and Law No. 12/1964 on protecting labor rights in private companies continued to be the legal basis for the labor rights.⁵²³ A new labor law should replace these old laws. In August 2001 the government started the process of preparing drafts for the new law. The government managed to informally involve a large number of labor and business organizations in the process. The process of drafting a new law took a long time. It was only in February 2003 that two drafts were presented in parliament: the draft for the act *Penyelesaian Perselisihan Hubungan Industrial* and the draft for the act on labor (*Ketenagakerjaan*).⁵²⁴

These drafts were the result of discussions between labor and business representatives during a series of meetings facilitated by the government. Therefore, it was expected that the discussion of the drafts in parliament would not face that many problems.⁵²⁵ Surprisingly, when the drafts were presented in parliament, both labor unions and business associations criticized the contents.

⁵²² *Suara Pembaruan*, 2 February 2003.

⁵²³ UU No. 22/1957 tentang *Penyelesaian Perselisihan Perburuhan* dan UU No. 12/1964 tentang *PHK Diperusahaan Swasta*.

⁵²⁴ On 3 February 2003, the drafts were passed to the Pansus (Panitia Khusus). As discussed in Chapter 5, a Pansus is a special committee set up by parliament if the text of a law has to be drafted, discussed, modified, and ratified or rejected by parliament.

⁵²⁵ This was stated by the chairman, also a member of Committee Komisi VII of parliament, of the Tim Kecil Pembahasan Informal RUU *Ketenagakerjaan* oleh Buruh dan Pengusaha.

The discussions about the new labor law once again seemed to reach a deadlock. In an attempt to revive the discussions, Minister Jacob Nuwa Wea organized another series of meetings between business and labor to rewrite the drafts. Initially, however, these meetings did not lead to a satisfactory result. There was still a lot of disagreement on several articles related to the provision of prayer facility, menstruation leave, the right to breastfeed during working hours, rules regarding outsourcing, rules regarding temporary employment, the right to strike, and rules on resignation. As a response to this deadlock situation, the chairman of Sub Komisi Ketenagakerjaan Komisi VII DPR, Rekso Ageng Herman, was appointed to chair a new team consisting of labor, business and independent representatives that was to discuss those articles on which labor and business still had conflicting views.⁵²⁶ Rekso Ageng Herman organized a series of meetings between business and labor. This new team was successful: within four weeks they succeeded in reformulating the main (though not all) articles. These drafts were to be sent to parliament for ratification.

Yet, even though new drafts of the law were formulated, this did not end discussions. Several labor unions rejected the draft of *Penyelesaian Perselisihan Hubungan Industrial* and the draft of *Ketenagakerjaan*, since the texts were said to accommodate too much the interests of business, undermining the needs of labor.⁵²⁷ This view was particularly defended by the chairman of the Anti-Labor Abuse Committee (KAPB),^{528 529} which represented 22 labor unions.⁵³⁰ The chairman of this committee emphasized once more that the main problem for business in Indonesia was bureaucracy and corruption, not labor rights. In his view, the two policy drafts were even weaker than Law No. 22/1957 and No. 12/1964. In particular, he criticized the restraints on organizing rallies⁵³¹ and outsourcing.⁵³² He also rejected the claim of his critics that the drafts reflected the views of the majority of the laborers. According to the chairman of KAPB many labor unions had not been involved in the drafting process. The criticism of KAPB was supported by KSPI.⁵³³ Yet, whereas KAPB strongly rejected the

⁵²⁶ The official name of this team was Tim Kecil Pembahasan Informal RUU Ketenagakerjaan oleh buruh dan pengusaha.

⁵²⁷ *Bisnis Indonesia*, 8 February 2003.

⁵²⁸ Komisi Anti Penindasan Buruh, and by the vice-director of Lembaga Bantuan Hukum (LBH) Jakarta, Surya Tjandra.

⁵²⁹ Similar views were expressed by the vice-director of Lembaga Bantuan Hukum (LBH) Jakarta, Surya Tjandra.

⁵³⁰ For instance the ASPEK Indonesia, FNPBI, Kawasan Berikat Cakung, FSPI, Gaspermindo, and AJI.

⁵³¹ The new law stipulated that one week before a rally is organized a letter has to be sent to the authorities, containing the names and number of participants.

⁵³² With respect to outsourcing activities, there were no health and pension insurance arrangements in the new law.

⁵³³ KSPI (Kongres Serikat Pekerja Indonesia) unites various labor unions.

drafts,⁵³⁴ other labor unions, among which the influential FSPSI and SBSI, supported them. Clearly, there was no consensus among labor about whether or not to accept the drafts.

One day before the Perlindungan Ketenagakerjaan draft was to be accepted in parliament, hundreds of laborers and members of NGOs organized a rally at the Bundaran Hotel Indonesia, a strategic spot in Jakarta.⁵³⁵ The strike was led by KAPB together with several NGOs dealing with labor rights.⁵³⁶ Criticism on various articles was raised again and participants in the rally strongly criticized those labor unions that supported the drafts.⁵³⁷

Notwithstanding these protests, Jacob Nuwa Wea recommended that parliament authorize the act on labor.⁵³⁸ Rekso Ageng Herman, chair of the team that had redrafted the new law, argued that the protests were not supported by the majority of the labor unions.⁵³⁹ Moreover, the minister said he would not accept the threat of labor unions and other organizations organizing rallies.⁵⁴⁰ He emphasized that the new legislation was required urgently in view of the massive unemployment, and that the drafts were the results of intensive discussions with representatives of business and labor unions.⁵⁴¹ He was supported by the chairman of the Komite Pemulihan Ekonomi, Sofyan Wanandi, who advised the government not to change the drafts any more. He argued that global economic developments required new domestic and foreign investments.

Parliament finally adopted the drafts during a session on 25 February 2003.⁵⁴² Yet, this process was not a smooth one. The session during which the drafts were discussed with representatives of both business and labor was interrupted twice because of tumultuous discussions on issues raised by Apindo and Kadin. These business representatives highly criticized the amount of long service pay,⁵⁴³ the amount of *penghargaan* compensation received,⁵⁴⁴ and the

⁵³⁴ *Kompas*, 8 February 2003; *Republika*, 8 February 2003.

⁵³⁵ *Bisnis Indonesia*, 24 February 2001.

⁵³⁶ For instance Kopbumi, YLBHI, and LBH Apik.

⁵³⁷ For example, Dita Indahsari of FNPBI argued that the draft still incorporated several articles undermining labor interests, i.e. out-sourcing workers, contract workers, and PHK.

⁵³⁸ *Bisnis Indonesia*, 18 February 2003.

⁵³⁹ *Suara Pembaruan*, 21 February 2003.

⁵⁴⁰ *Bisnis Indonesia*, 27 February 2003.

⁵⁴¹ *Kompas*, 22 February 2003.

⁵⁴² *Koran Tempo*, 26 February 2003.

⁵⁴³ Due to pressure of the interventions made by Kadin and Apindo it was finally decided that employees who had worked for eight years, would get nine times their monthly salary or wage. This amount was less than previously demanded by Jacob Nuwa Wea as chairman of FSPSI (ten times the monthly salary for nine years of service). It was also less than demanded by most labor unions.

⁵⁴⁴ Employees would still receive three times their monthly salary.

compensation received by employees who violated existing regulations.⁵⁴⁵ With respect to these three cases, Ministerial Decree No. 150/2000 had been harmful for business interests. During the discussions on the drafts of the labor laws, in all three cases the drafts were eventually adjusted to accommodate the demands of the business sector. In the end, the new labor laws were adopted by parliament under tense conditions: controversies regarding the laws within parliament, and protesting rallies outside parliament.⁵⁴⁶

After the draft texts were endorsed by parliament, there were still some labor unions that were not satisfied.⁵⁴⁷ Yet, the majority of the unions were prepared to accept the texts. Chairman Rodja of the most important labor union FSPSI made a statement that despite some unsatisfactory articles the organization was willing to accept the law. Business representatives were also ready to respect the decisions of parliament and to accept the new law. According to chairman Bakrie, Kadin was quite satisfied with the contents of the law, although it did not meet all demands of the business sector,⁵⁴⁸ but at least this new law was seen as much more business-friendly than Decree No. 150/2000.⁵⁴⁹ Therefore, after the finalization of the drafts texts into the text of Labor Protection Law No. 13/2003,⁵⁵⁰ the final text was ratified in parliament in April 2003 and signed by the President soon afterwards.

In the process of establishing new labor legislation, minister Jacob Nuwa Wea played a crucial role. Apart from being the chairman of an influential labor organization, he was also a former member of parliament for PDI-P. As a former MP he was accustomed to the practice of negotiating and policymaking. He also spoke the language of the people, which earned him respect among labor. At the same time, he was a realist who was aware of the fact that a compromise between labor and business was necessary to be able to draft the new labor legislation. Such a compromise, he realized, would not be perfect for either party involved. Still, probably because of his status he managed to function as an intermediary between both parties involved in formulating Law No. 13/2003. His role was particularly important after the new law was promulgated. While several labor organizations still rejected it, Nuwa Wea

⁵⁴⁵ In these cases employees would no longer get any compensation.

⁵⁴⁶ Organized by Forum Pemimpin and Aktivitas Perempuan Serikat Pekerja; *Media Indonesia*, 28 February 2003; see also *Suara Pembaruan*, 25 February 2003.

⁵⁴⁷ Some of the labor unions that were not satisfied were: Kongres Serikat Pekerja Indonesia (KSPI), Komite Anti Penindasan Buruh (KAPB), Aliansi Jurnalis Indonesia (AJI), Aspek Indonesia, Front Nasional Perjuangan Buruh Indonesia (FNPBI), FGII (Forum Guru Independen Indonesia), Persatuan Pekerja Muslim Indonesia (PPMI), Konsorsium Pembela Buruh Migran Indonesia (Kopbumi), YLBHI, and Solidaritas Perempuan.

⁵⁴⁸ *Bisnis Indonesia*, 8 March 2003.

⁵⁴⁹ The law includes several articles satisfying demands from Kadin and other business associations. Based on an interview with Sihite, head of the management department of Kadinda-DKI, 3 July 2003.

⁵⁵⁰ Undang-Undang Ketenagakerjaan No. 13 tahun 2003.

made it clear to them that they had better accept the deal and the new legislation. After all, more protests and opposition would hurt labor even more.

Even though the contents of the new law remained to be criticized by both business representatives and labor unions, their diverging opinions about the law did not escalate into large labor-business conflicts as occurred after the drafting of Decree No. 150/2000.⁵⁵¹ Actually, since the ratification Manpower Law No. 13/2003 has been functioning without too many problems. One of the reasons of this success is the fact that labor-business conflicts are now solved or prevented by way of tripartite discussions both at a national and at a local level.⁵⁵² This type of tripartite dialogue has been quite common since the early 2000s. Both labor and business have become aware of the fact that such dialogues are most fruitful in solving disputes. It creates a sphere in which both parties trust each other and in which both parties respect the position of the other. The labor unions in particular have become aware that too radical demands lead to a weakened business sector, which in the end may be contra-productive for labor as well. A close-down of factories would not be a victory for labor, but instead a loss for both business and labor.

7.10 Conclusions

This chapter discusses the process of labor rights legislation and the role of Kadin in establishing this new legislation. The case study in this chapter covers the period from the adoption of Ministerial Decree No. 150/2000 in 2000 until the ratification of Manpower Law No. 13/2003 in 2003. As we have seen, Ministerial Decree No. 150/2000 was particularly labor-friendly. When this decree was launched, Kadin played an important role as the organization that channeled business' strong criticism on the decree and that mobilized efforts to revise it. Kadin representatives, through their contacts with the Ministry of Employment and Transmigration but also through their appearances in the media, stressed that the initial version of the decree would be very harmful for Indonesia's economy. The decree would make labor costly and would reduce the competitiveness of Indonesian exporters. It would also lead to a reduction of foreign investment and would even lead to a displacement of multinationals from Indonesia to cheaper neighboring countries such as Vietnam, China and Cambodia. They argued that therefore Decree 150/2000 had to be replaced by a new decree in which labor rights were less harmful for the Indonesian economy and Indonesian business. During the initial phase of the period 2000-2003

⁵⁵¹ Hasanuddin Rachman in bulletin *Kadin Edisi* No. 47 Nov-Des 2002, pp.21-25; "Diseputar Proses Pembuatan Undang-Undang Ketenagakerjaan" by Rachman, secretary-general DPP-Apindo.

⁵⁵² Examples are the payment negotiations conducted by Lembaga Komisi Pengupahan, P4D, Lembaga K-3, Lembaga Produksi, etc.

business focused on influencing policymaking by directly or indirectly (through the media) communicating with the government. There was no direct interaction with labor representatives yet.

The government appeared to be sensitive to the demands of business. It feared that the adverse effects of the decree would make the economic burden of the Asian crisis, which had hugely affected the country's economy, even larger. Kadin and the government thus had similar interests and responsibilities: too high labor costs had to be prevented, and it was necessary to create an economic environment that was attractive to domestic and foreign investors. Kadin's efforts in lobbying for a more business-friendly decree were successful in the end. In early 2001 the government issued Ministerial Decree No. 78/2001, in which several of the regulations that favored the position of labor over business were mitigated or even removed.

After the government had decided to replace Ministerial Decree No. 150/2000 by Ministerial Decree No. 78/2001, there were strong and large-scale protests by labor and protest rallies were organized in many cities, at times violent. In spite of the economic problems of the country, they managed to mobilize enormous support for their protests. Under pressure of the massive labor revolt, the government did not dare to maintain Ministerial Decree No. 78/2001 and was thinking of reinstalling Ministerial Decree No. 150/2000.

In those hectic days, the position of Kadin changed. Instead of discussing matters with the government bilaterally, it realized it now had to take labor seriously. Both the business sector and the government began to realize that labor was a powerful party in the process of policymaking. Labor unions became participants in the discussions and negotiations on legislation. When parliament decided to prepare Manpower Law 13/2003 (replacing Ministerial Decrees No. 150/2000, No. 78/2001 and No. 111/2001), representatives of labor unions participated in tripartite committees and meetings involving representatives of business, labor and government. Thus, labor unions became important actors in debates on labor legislation. Kadin became one of the three parties in this triangular relationship and was no longer the only party to talk with the government. Instead, it had to accept that it could only play a modest role in the tripartite interaction with labor and government on issues regarding labor legislation. In similarly, labor became aware that it was in every one's interest that Indonesia was attractive for investors and that radical and violent rallies could hurt the economy, which would also hurt labor interests.

The bottom line of this case study is that it shows that in the new reality of the Indonesian political economy after 1999, tripartite negotiations between business, labor and government had become a necessary practice of channeling policymaking. With respect to labor legislation, it took quite some time (with a lot of disagreements, conflicts, protests and violence) before this practice of tripartite negotiations was established. These negotiations are now common practice in Indonesia.

As this case study shows, Kadin's role as the representative of business interests was never seriously challenged by the business sector. In contrast to what we have seen in the cases described in Chapters 5 and 6, there was no serious fragmentation of interests and views among business members of Kadin, which could have impeded the effectiveness of Kadin's actions. The main reason for this apparent harmonious situation may have been that in this particular case the interests of all business people were quite similar. To all these business people, labor costs were an important part of the total costs of production, and rising labor costs would seriously affect their performance and competitiveness. On several occasions, Kadin worked closely together with some of its most important member business associations, such as for instance the Indonesian shoes association Aprisindo and the Union of Indonesian Export Companies, in trying to convince the government (and later labor as well) representatives why the proposed labor legislation should be changed.

Appendix Tables Chapter 7

Table 1: Overview of the Labor Legislation in Indonesia 1948-early 2000

Year	Manpower	Labor/Work Agreements	Industrial Relations Disputes and Dispute Resolution	Wages	Freedom of Association
1940s	Law No. 12, 1948 On Labor				
1950s	Law No. 1, 1951 concerning the Application of Law No. 12, 1948 in all Indonesian Provinces	Law No. 21, 1954 on Labor Agreements Between Labor Unions and Employers	Law No. 22, 1957 on Labor Dispute Resolution	Law No. 80, 1957 on Wages	Law No. 18, 1956 on the Ratification of ILO Convention No. 98 of 1949 concerning the Right to Organize and Collective Bargaining
1960s	Law No. 14, 1969 on the General Provisions concerning Labor		Law No. 12, 1964 On Employment Termination in Private Firms		
1990s	Law No. 25, 1997 on Manpower (postponed)				Presidential Decree No. 83, 1998 on the Ratification of ILO Convention No. 87 of 1948 concerning the Freedom of Association and Protection of the Right to Organize
	Law No. 11, 1998 on Amendments to the Application of Law No. 25/1997 concerning Manpower				
Post 2000	The Development and Protection of the Workforce Bill		The Industrial Relations Dispute Resolution Bill		Law No. 21, 2000 on Labor Unions

Source: SMERU, The Practice of Industrial Relations in Indonesia, March 2003.

Table 2: Overview of Industrial Relations Regulation in Indonesia 1948-early 2000

Year	Manpower	Labor/Work Agreements	Industrial Relations Disputes and Dispute Resolution	Wages	Freedom of Association
1950s		Government Regulation No.49,1954 on "Methods to formulate and regulate labor contracts"			
1970s		Ministerial Regulation Per 02/Men/1978 on "Internal enterprise regulations and the formulation of labor contracts"			
1980s	Ministerial Decision No. 645/Men/1985 on "Pancasila Industrial Relations "	Ministerial Regulation No. 01/Men/1985 on "Mechanisms used to formulate workplace agreements"		Government Regulation No. 8, 1981 concerning Wage Protection	
1990s			Ministerial Decision No. Kep-15A/Men/1994 on "Guidelines to Industrial Relations Dispute Resolution and Employment Termination at the Enterprise Level and Mediation"	Circular No.08, 1990 Concerning Wage and non-Wage Components	Ministry of Manpower Decision Kep-272/Men/1999 on "Revocation of Ministerial Regulation 04/Men/1996 concerning Retribution for Unions"
			Ministry of Manpower Regulation No.3, 1996 on "Settlement of employment termination and determining the payment of severance pay, long service pay and compensation in private firms"	Ministerial Regulation No. 02, 1999 on Minimum Wages	
Year	Manpower	Labor/Work Agreements	Industrial Relations Disputes and Dispute Resolution	Wages	Freedom of Association
2000			Ministry of Manpower Decision No.150/Men/ 2000 on "The settlement of employment termination and determining the payment of severance pay, bonuses, and compensation in firms"	Governor/Bupati/Mayor Decrees on Minimum Wages	
2001			Ministry of Manpower and Transmigration Decision No.78, 2001 on " Amendments to Several Articles in Kepmenaker No Kep-15/Men/ 2000"		Ministry of Manpower and Transmigration No. Kep-16/Men/2001 on "The Registration of Labor Unions"
			Ministry of Manpower and Transmigration Decision No.111, 2001 on "Amendments to Article 35A Kepmenakertrans No. Kep-78/Men/2001"		

Source: SMERU, The Practice of Industrial Relations in Indonesia, March 2003.

Table 3: Overview of the Labor Union Federations, 2001

No	NAME OF LABOR ORGANIZATION (in BAHASA)	COMMITTEE (HEAD)	REGISTRATION NUMBER	NUMBER OF ENTERPRISE UNIONS	
				Based on Department of Manpower Data	Based on Field Information*
1	2	3	4	5	6
1	Konfederasi Serikat Pekerja Seluruh Indonesia (FSPSI)	Jacob Nuwa Wea	B. 936/M/BW/98	6.241	
2	Dewan Executif F-SPSI Reformasi	Andi Hishulin P.	B.892/M/BW/98	3.149	
3	Federasi Serikat Buruh Demokrasi Indonesia (FSBDSI)	A. Azis Rambio, SH	B.950/M/BW/98	121	
4	Serikat Buruh Sejahtera Indonesia (SESI)	DR. Muchtar Pakpahan	B. 1025/M/BW/98	229	
5	Serikat Buruh Muslim Indonesia (SARBUMUSI)	Drs.H. sutanto M	B. 451/M/BW/98	11	Surabaya: 30
6	Persaudaraan Pekerja Muslim Indonesia (PPMI)	Eggi Sujana	B. 334/M/BW/99	122	
7	Gabungan Serikat Pekerja Medeka Indonesia (GASPERMINDO)	Moh. Jumhur Hidayat	Kep. 250/M/BW/2000	10	
8	Federasi Organisasi Pekerja Keuangan dan Perbankan Indonesia (FOKUBA)	Kodjari Darmo	B. 379/M/BW/99	32	
9	Kesatuan Buruh Marhaenis (KBM)	M. Pasaribu	-	-	
10	Kesatuan Pekerja Nasional Indonesia (KPNII)	Dr. Haryono, MBA	Kep.345/M/BW/98	9	
11	Kesatuan Buruh Kebangsaan Indonesia (KBKI)	DR. M. Ali, SH, MSC	B. 102/M/BW/99	-	Surabaya: 3
12	Asosiasi Karyawan Pendidikan Swasta Indonesia (ASOKADIKTA)	Drs. H. Dedi Hamid, SH	B. 1119/M/BW/98	-	
13	Gabungan Serikat Buruh Industri Indonesia (GASBIINDO)	H. Agus Sudono	B. 082/M/BW/99	194	
14	Asosiasi Serikat Pekerja Indonesia (ASPEK INDONESIA)	Indra Jahya	KEP. 421/M/BW/2000	65	
15	Serikat Pekerja Keadilan (SPK)	Ir. Eddy Zamut, MSAE	-	1	
16	Serikat Pekerja Metal Indonesia (SPMI)	Thamrin Mosi	B. 178/M/BW/98	115	
17	Gabungan Serikat Buruh Independen (GSBI)	Sobirin	-	1	
18	Dewan Pengurus Pusat Korps Pegawai Republik Indonesia (KOPRI)	Drs. HM Faizal Tamim	B. 343/M/BW/99	-	
19	Federasi Serikat Pekerja BUNN	Drs.H.Barnbang Syukur	B. 559/M/BW/99	28	
20	Serikat Buruh Merdeka Setiakawan	Saut H.Artonang	B. 658/M/BW/99	-	
21	Serikat Pekerja Nasional Indonesia	HM Amri, MBA	B. 493/M/BW/99	12	
22	Federasi Serikat Pekerja Iktelit, Sandang dan Kulit (FSP.TSK)	Rustam Aksan	40/M/BW/2000	680	
23	Gabungan Organisasi Buruh Seluruh Indonesia (GOBSI)	Y. Yahya	KEP. 395/M/BW/2000	57	Bandung: 68
24	Asosiasi Karyawan Pendidikan Nasional (ASOKADIKNA)	Soeganda Priatna	KEP. 451/M/BW/2000	-	
25	Federasi SP Perengak Keadilan Kesejahteraan & Persatuan (SPKP)	Andry WM	178/FSP-SPKP/DFT/BW /2000	49	
26	Federasi SP Rakyat Indonesia (SPRI)	Ruslan Effendy, SE	186/FSP-SPRI/DFT/BW /2000	28	
27	Federasi Kimia Energi Pertambangan (KEP)	Syaful	187/FSP-KEP/DFT/BW/ IX/2000	481	
1	2	3	4	5	6
28	Federasi SP Indonesia (SPI)	Siraj EL Munir Bustami	190/FSP-SPI/DFT/BW/IX/2000	23	
29	Front Nasional Perjuangan Buruh Indonesia (FNPI)	Dita Indah Sari	191/FSP-CSBM/DFT/BW/X/2000	14	
30	Federasi Gabungan Serikat Pekerja Mandiri (GSBM)	Amran Simanjuntak	Kep. 199/FSP- GSBM/DFT/BW/X/2000	22	
31	Federasi Perserikatan Buruh Indonesia (FBI)	Yudhi S Hidayat	Kep 502/FSP-SBP/ DFT/BW/XI/2000	5	
32	Federasi Serikat Buruh Perjuangan (FSBP)	Drs. HM. Syahrin, BSc	Kep. 745/M/BW/2000	-	
33	Federasi Aliansi Jurnalis Independen (FAJI)	Didik Supriyanto	Kep. 742/M/BW/2000	58	
34	Federasi Gabungan Serikat Pekerja PT. Rajawali Nusantara Indonesia (CSPRNI)	Ir. Widodo Rahardjo	216/FSP- FARKES/RII/DFT/BW/XII/00	-	
35	Federasi Farkes Reformasi	Djufnie Ashary	223/FSPM/DFT/BW/ 2001	68	
36	Federasi SPM (Hotel, Restoran, Plaza, Apartemen, Katering, dan Pariwisata Indonesia)	Isep Saepul Mubarah	231/FSP – CASPERMINDO/ DFT/BW/II/2000	9	
37	Gasperindo Baru	Miyadi Suryadi, SH	13/DPP-GSBI 2000/II – 2001	20	
38	Gabungan Serikat Buruh Indonesia 2000 (DPP GSBI 2000)		1401/DPP/FSPK/03-2001	-	
39	Federasi SP Kahutindo	Dra. Hj.Sofiaty Mukadi		400	
40	Federasi Serikat Pekerja Pariwisata (SP PAR)	Djoko Daulat		725	
41	Federasi Serikat Pekerja Percetakan, Penerbitan dan Media Informasi	Isprapto	87/V/VI/2001	-	
42	Federasi SP Pertanian dan Perkebunan	Hartono	78/V/VI/2001	905	
43	Federasi Serikat Pekerja Bangunan dan Pekerjaan Umum (SP BPU)	Drs. Syukur Sarto,MS	118/V/N/2001	-	
44	Federasi Serikat Pekerja Bank, Niaga Jasa dan Asuransi (NIBA)	T. Zoelfickalib	104/V/N/VII/2001	-	Surabaya: 24
45	Federasi Serikat Pekerja Farmasi dan Kesehatan	Alexander Sinaga	98/V/N/III/2001	107	
46	Federasi Serikat Pekerja Angkutan Darat, Danau, Feri Sungai dan Telekomunikasi Indonesia (SP ADTES)	Drs.H Sofjan Soedjaja, MA		-	
47	Federasi Serikat Pekerja Logam, Elektronik dan Mesin (FSP LEM)	Hikayat A.K	77/V/N/III/2001	720	
48	Federasi Serikat Pekerja Rokok, Tembakau, Makanan dan Minuman (FSP RTMM)	Tosari Wijaya	109/V/N/VI/2001	-	Surabaya: 39
49	Federasi Serikat Pekerja Kependidikan Seluruh Indonesia (F SPKSI)	Drs. Firman Hadi, Bclp	96/V/N/VII/2001	-	
50	Federasi Serikat Pekerja TSK SPSI	A. Sidabutar	89/V/VI/2001	753	
51	Federasi SP Perkawau dan Kehutanan (FSP KAHUT-SPSI)	M. Sitlahi	-	-	Surabaya: 33
52	Federasi SP Transportasi Indonesia (FSP TI)	Drs. M.CH.David	-	-	Surabaya: 25
1	2	3	4	5	6
53	Federasi SP Kimia, Energi dan Pertambangan (FSP KEP)	Jacob Nuwa Wea		217	
54	Federasi SP Maritim Indonesia (FSP MI)	Oesodo H.D.S		-	
55	Kesatuan Pelaut Indonesia (KPI)	Hanafi Rustandi		-	
56	Federasi SP Tenaga Kerja Indonesia di Luar Negeri (FSP TKI LN)	Drs. Azwar Nadlar		-	
57	Federasi Serikat Buruh Karya Utama (FSBKU)	Dwi Agustini	560/04-DKK/PC/kota-TNG/ VIII/2001	5	
58	Federasi Serikat Pekerja Perkebunan Nusantara (FSP BUN)	Drs. HM. S. Gisting	134/II/XI/2001	-	
59	DPP Gerakan Buruh Marhaenis	A. Takumansang	190/V/N/II/2001	-	
60	Federasi Serikat Pekerja Industri Semen Indonesia (FSP ISI)	Muchtar Juaneidi	197/V/N/II/2002	12	

Source: Sub-directorate of Employer and Employee Empowerment, Department of Manpower and Transmigration, January 2002.

Note: * only noted if the number of labor unions (based on field information) was higher than Department of Manpower and Transmigration data.

Source: SMERU, The Practice of Industrial Relations in Indonesia, March 2003.

Table 4: Comparing the Contents of Minister of Manpower Regulation No. 3/1996, Ministerial Decree No. 150/2000, and Ministerial Decrees No. 78/2001 and 111/2001

Permenaker No.03/Men/1996	Kepmenaker No. Kep-150/Men/2000 (June, 2000) ^a	Kepmenakertrans No. Kep-78/Men/2001 (May 4, 2001) and Kepmenakertrans No. Kep-111/Men/2001 (May 31, 2001) ¹⁰
<p>Permenaker No.03/Men/1996 on "Determining the Payment of Severance Pay, Long Service Pay, and Compensation in Private Firms".</p> <p>Rationale for the Regulation:</p> <ol style="list-style-type: none"> 1. Law No. 22, 1957 on Labor Dispute Settlement 2. Law No. 12, 1964 on "Employment Termination in Private Firms". 3. In order to ensure law and order, justice and rule of law in employment termination (PHK) settlement. 4. Retrenchment procedures and the determination of severance pay, honorarium and compensation as referred to in Ministerial Regulation No. Per 04/Men/1986 is no longer in accordance with needs and therefore requires to be improved. <p>Contents of Permenaker 01/Men/1996: Chapter I. General provisions Chapter II. Settlement of Employment Termination at the Enterprise level and at both the Enterprise and Mediation levels (Article 6 to Article 13).</p>	<p>Kepmenaker No. Kep-150/Men/2000 on "The Settlement of Employment Termination and Determining the Payment of Severance Pay, Long Service Pay and Compensation in Firms."</p> <p>Legislation References and Rationale for the Decision</p> <ul style="list-style-type: none"> • Law No.12/1957 • Law No.22/1964 • In order to ensure law and order, justice and rule of law in employment termination (PHK) settlement. • The determination of severance pay, honorarium and compensation as referred to in Minister of Manpower Regulation No. Per 03/Men/1996 is no longer in accordance with needs and therefore requires to be improved. <p>Contents of the Minister of Manpower Decree: Chapter I. General Provisions Chapter II. Settlement of Employment Termination at the Enterprise level and at both the Enterprise and Mediation levels.</p>	<p>Kepmenakertrans No. Kep-78/Men/ 2001 on Amendments to Several Articles in Kepmenaker No. Kep.150/Men/2000.</p> <p>Rationale behind the Amendments:</p> <ol style="list-style-type: none"> 1. Law No. 22/1957 2. Law No. 12/1964 3. Kepnaker No. Kep-150/Men/2000 4. Press Release from the Head of the Public Relations Bureau and KLN, Depnakertrans dated May 31, 2001, includes: <ul style="list-style-type: none"> • In order to accommodate and maintain the balance between the interests of the workers and the employers, and the desires of the public, on the basis of the principles of justice; • Until now there has been no country that has given compensation to workers who resign or workers whose employment is terminated due to major offences; • During the period between July 2000 and February 2001, only 2,014 workers or 2.54% (of employment terminations) occurred due to serious mistakes, and only 249 workers or 0.31% resigned voluntarily (PHK).
<p>Permenaker No.03/Men/1996</p> <p>Chapter III. Settlement of Employment Termination at both Provincial and Central Committee levels (Article 14 to Article 19). Chapter IV. Determination of Severance Pay, Long Service Pay, and Compensation (Article 20 to Article 30) Chapter V. Transitional Provisions (Article 31) Chapter VI. Commencement of the Act</p> <p>Permenaker No. 03/Men/1996 Does not regulate the amount of severance pay, long service pay or compensation if the employee resigns voluntarily, similar to Article 27, Kepmenaker No. Kep-150/Men/2000.</p> <p><u>Article 15:</u> Anyone who is absent for five (5) consecutive days shall be considered to have resigned, and the employer is obliged to submit an Application for Permission to Terminate Employment (PI PHK).</p>	<p>Kepmenaker No. Kep-150/Men/2000 (June 2000)</p> <p>Chapter III. Settlement of Employment Termination at both Provincial and Central Government Committee levels. Chapter IV. Determination of the Payment of Severance Pay, Long Service Pay, Incentives and Compensation Chapter V. Transitional Provisions Chapter VI. Commencement of the Act</p> <p>Chapter I. General Provisions This chapter contains the concepts of enterprise, entrepreneur, worker, employment termination (PHK), Mass PHK, severance pay, long service pay, compensation, fixed allowances, mediation officer, Provincial Committee, Central Committee, and Ministry.</p> <p>Articles that are later amended (in Kepmenakertrans No. Kep-78/2001 and Kep-111/2001): <u>Article 15:</u> (1) In the event that a worker is absent for at least five (5) consecutive working days and they have been summoned twice in writing by the employer, but they fail to give a legally valid written explanation, then the employer may proceed with termination of employment (PHK).</p>	<p>Kepmenakertrans No. Kep-78/Men/2001 (May 4, 2001) and Kepmenakertrans No. Kep-111/Men/2001 (May 31, 2001)</p> <ul style="list-style-type: none"> • The government is determined to maintain a conducive investment climate in order to enhance economic growth which in turn, will stimulate the growth of job opportunities (based on research, under normal conditions, economic growth of 1% would be sufficient to accommodate 400,000 workers, whereas under the multi-crisis conditions only 200,000 workers would be able to be employed). • The rights or compensation for workers whose employment is terminated (not because they resign or commit major offences) are not at all diminished. <p>Amendments: The following terms shall be amended: - Pekerja (workers) shall be amended to read <i>pekerja/buruh</i> (workers/labor); - Serikat pekerja (labor union) shall be amended to read <i>serikat pekerja/serikat buruh</i> (workers union/labor union); and - Menteri Tenaga Kerja (Minister of Manpower) shall be amended to read <i>Menteri Tenaga Kerja dan Transmigrasi</i> (Minister of Manpower and Transmigration).</p> <p>Basic amendments: <u>Article 15:</u> (1) In the event that <i>pekerja/buruh</i> (worker/labor) is written <i>pekerja/buruh</i> that is valid, then <i>the worker/labor shall be regarded to have resigned not for good</i> and as such the employer/firm can conduct</p>

Table 4 (continued)

Permenaker No. 03/Men/1996	Kepmenaker No. Kep-150/Men/2000 (June 2000)	Kepmenakertrans No. Kep-78/Men/2001 (May 4, 2002) and Kepmenakertrans No. Kep-111/Men/2001 (May 31, 2001)
<p><u>Article 16:</u> In the event of suspension from work (<i>sorsing</i>) prior to termination of employment (PHK), the employer shall be obliged to pay a minimum of fifty percent (50%) of the wage for no longer than 6 months. After 6 months, the employer is not obliged to pay this wage.</p> <p>The suspension from work shall be in writing and forwarded to the worker concerned.</p>	<p><u>Article 16</u> (1) Before permission to conduct employment termination (PHK) is issued by the Provincial Committee or Central Committee, and in the event that the employer suspends the worker(s) concerned from work, in accordance with the provisions in the work agreement or company regulation or collective labor agreement, then the employer shall be obliged to pay the worker(s) at least seventy-five per cent (75%) of their wages.</p>	<p>Previously, there was no paragraph 3 in Kepnaker No.150.2000. <u>In the event that the worker/labor does not report to work as referred to in paragraph (1) because the worker is involved in a strike that is not in accordance with the current regulations, then the worker shall be declared absent.</u></p> <p><u>Article 16:</u> (paragraph 1 has been divided into two with some additions) (1) Before the Provincial Committee or Central Committee issues a permit to terminate employment, <u>the employer can suspend the worker/labor from work provided that the suspension from work has been stipulated</u> in the work agreement or company regulation or the collective labor agreement. (2) <u>In the event that the employer conducts suspension from work as referred to in paragraph (1), then during the suspension from work</u> the employer shall be obliged to pay at least seventy-five per cent (75%) of the worker's wage. (5) Paragraph (4) becomes paragraph (5): After the period of suspension from work (as referred to in paragraph (3) is over), then the employer shall not be obliged to pay the wages unless otherwise determined differently by the Provincial Committee or the Central Committee.</p>
Permenaker No.03/Men/1996	Kepmenaker No. Kep-150/Men/2000 (June, 2000)	Kepmenakertrans Nos. Kep-78/Men/2001 (May 4, 2001) and Kepmenakertrans No. Kep-111/Men/2001 (May 31, 2001)
<p>If there is no suspension from work, the respective parties shall continue with their duties, provided that:</p> <ul style="list-style-type: none"> • If the employer prohibits worker(s) from working, then 100% of their wage shall be paid during the process; • If the worker(s) willfully fails to do their duties, then the employer shall not be obliged to pay their wages during the process. • If the workers fulfill their duties, but not clearly, then only 50% of their wage shall be paid during the process. 	<p>(4) After six (6) months of suspension from work, if no verdict has been issued by the Provincial or Central Committees, further wage payment shall be determined by both the Provincial and Central Committees.</p>	<p>Article 17A is inserted between Article 17 and Article 18, which shall read as follows: (1) In the event that the employer submits an application for a permit to terminate employment as referred to in Article 2 paragraph (1) but they do not suspend the worker from work as referred to in Article 16 paragraph (1), then as long as the permit to terminate employment has not been issued by the Provincial Committee or Central Committee, then the worker/labor shall remain in their position and the employer is obliged to pay 100% of the worker's wage during the process. (2) In the event of employment termination, where the employer fails to apply for permission, the employment termination as referred to in Article 2 paragraph (1) <u>shall become a dispute case before the Provincial Committee or Central Committee, and the wage of the worker/labor during the process shall be a hundred percent (100%) of the wages to be paid to the worker concerned.</u></p>

Table 4 (continued)

Permenaker No.03/Men/1996	Kepmenaker No.Kep-150/Men/2000 (June 2000)	Kepmenakertrans No. Kep-78/Men/2001 (May 3, 2001) and Kepmenakertrans No. Kep-111/Men/2001 (May 31, 2001)
<p>Before obtaining permission to terminate employment, suspension from work can be applied, but if the employment termination is the result of a major offence, the worker shall not be entitled to severance pay, but they shall be entitled to long service pay and compensation.</p> <p>A worker who is detained, not as a result of the employer's report shall not receive their wage, but the dependant family shall be given some financial support for six (6) calendar months with the following provisions:</p>	<p>Article 18:</p> <p>(1) Permission to terminate employment can be issued because a worker commits a major offence as follows:</p> <ul style="list-style-type: none"> a. b. c. d. e. f. g. h. its contents = g i. its contents = h = g j. k. <p>(3) Suspension from work can be applied to a worker committing or involved in offenses as referred to in paragraph (1) prior to the permission to terminate employment to be issued by the Provincial or Central Committees.</p> <p>(4) Worker(s) whose employment is terminated because they have committed a major offence as referred to in paragraph (1) shall not be entitled to severance pay, but shall be entitled to long service pay, provided that their time in service meet the requirements for obtaining long service pay and compensation.</p>	<p>Article 18:</p> <p>(2) Permission to terminate employment can be issued because a worker commits a major offence, as follows:</p> <ul style="list-style-type: none"> a. b. c. d. e. f. g. h. <u>carelessly or intentionally causing damage, harm or leaving any goods belonging to the employer in poor condition</u>; or i. <u>carelessly or intentionally causing damage or intentionally endangering oneself or other worker(s)</u>; or j. k. <p>(3) Suspension from work can be applied to workers' committing offense(s) referred to in paragraph (1) prior to permission to terminate employment to be issued by the Provincial or Central Committees <u>provided that the suspension from work has been stipulated in the work agreement or internal enterprise regulation or collective labor agreement.</u></p> <p>(4) A worker whose employment is terminated due to a serious offence (s) referred to in paragraph (1) shall not be entitled to severance pay <u>as referred to in Article 23, but they shall be entitled to compensation as referred to in Article 26B.</u></p>
Permenaker No.03/Men/1996	Kepmenaker No. Kep-150/Men/2000 (June 2000)	Kepmenakertrans No. Kep-78/Men/2001 (May 3, 2001) and Kepmenakertrans No. Kep-111/Men/2001 (May 31, 2001)
<p>a. 1 dependant: 25% of wage</p> <p>b. 2 dependants: 35% of wage</p> <p>c. 3 dependants: 45% of wage</p> <p>d. 4 dependants: 50% of wage</p> <p><u>Article 22</u></p> <p>The amount of long service pay as stipulated in Article 20 is as follows:</p> <p>a. Work Period=> 5<10 years: 2 months wages</p> <p>b. Work Period=> 10<15 years: 3 months wages</p> <p>c. Work Period=> 15<20 years: 4 months wage</p> <p>4. Work Period=> 20<25 years: 5 months wage</p> <p>5 Work Period=> 25 years : 6 months wages</p>	<p>Article 19</p> <p>(1) In the event that the worker is detained by the authorities as referred to in paragraph (2), the employer shall not be obliged to pay their wage but shall be obliged to provide aid to the worker's dependant family, with the following stipulations:</p> <ul style="list-style-type: none"> a. for 1 person: 25% of wage b. for 2 persons: 35% of wage c. for 3 persons: 45% of wage d. for 4 or more persons: 50% of wage <p><u>Article 23</u></p> <p>The amount of long service pay as stipulated in Article 21 is as follows:</p> <p>a. Work Period=> 3<6 years: 2 months wages</p> <p>b. Work Period=> 6<9year: 3 months wages</p> <p>c. Work Period=> 9<12 years: 4 months wages</p> <p>d. Work Period=> 12<15 years: 5 months wages</p> <p>e. Work Period=> 15<18 years: 6 months wages</p> <p>f. Work Period=> 18<21years: 7 months wages</p> <p>g. Work Period=>21>24 years: 8 months wages</p> <p>h. Work Period=> 24 years:10 months wages</p> <p><u>Article 26</u></p> <p>(1) In the event of employment termination due to a worker's voluntary resignation, the worker shall be entitled to long service pay and compensation in accordance with the provisions in Article 23 and Article 24.</p>	<p><u>Article 26:</u></p> <p>(1) In the event of employment termination because of voluntary resignation, the worker/labor shall be entitled to compensation as referred to in Article 26B.</p> <p>Addenda of four (4) new paragraphs that stipulate the obligation of the worker/labor to submit an application for resignation in writing at the latest thirty (30) days prior to the date the resignation commences and before the resignation day they shall be obliged to carry out their duties. It is also herein stipulated the employer's obligation to respond at the latest fourteen (14) days prior to the date of resignation.</p>

Table 4 (continued)

Permenaker No. 03/Men/1996	Kepmenaker No.Kep-150/Men/2000 (June, 2000)	Kepmenakertrans No. Kep-78/Men/2001 (May 4, 2001) and Kepmenakertrans No.Kep-111/Men/2001 (May 31, 2001)
	<p>Articles 27 through 32 are related to the obligation to provide severance pay, long service pay and compensation, which is stipulated as follows:</p> <ul style="list-style-type: none"> • Severance pay, two times in accordance with the provisions outlined in Article 22 • Long service pay shall be in accordance with Article 23 (no provision on how many times) • Compensation shall be in accordance with the provision in Article 24 (no provision regarding how many times.) 	<p>Addenda of new Articles, namely, Article 26A and Article 26B are inserted between Article 26 and Article 27. Article 26A stipulates the limitation on the number of workers/labor who can resign in a certain period.</p> <p>Article 26B stipulates the payment of compensation referred to in Article 18 paragraph (4) and Article 26 paragraph (1) namely, compensation for annual leave, extended leave, cost of transportation to go home, reimbursement of housing, hospitalization, and medication which is fixed at 15% of a worker's wage.</p> <p>Articles 27 up to 32 are related to the obligation to provide severance pay, long service pay and compensation which is stipulated as follows:</p> <ul style="list-style-type: none"> • Severance pay, 2 times as much as the provision in Article 22 • Long Service Pay, in accordance with the provision in Article 23 • Compensation, in accordance with the provision in Article 24 <p>Article 32A is inserted between Articles 32 and 33, which stipulates that workers/labor whose employment is terminated when they have not yet entered retirement age but have been participating in a pension program, then the workers concerned shall not be entitled to long service pay</p>
Permenaker No.03/Men/1996	Kepmenaker No. Kep-150/Men/2000 (June, 2000)	Kepmenakertrans No. Kep-78/Men/2001 (May 4, 2001) and Kepmenakertrans No. Kep-111/Men/2001 (May 31, 2001)
		<p>Article No.35A is inserted between Articles No's.35 and 36, which stipulate the imposition of severance pay, long service pay and compensation since the effective date of this Kepmenakertrans.</p> <p>Kepmenakertrans No. Kep-111/Men/ 2001 concerning Amendments to Article 35A of Kepmenakertrans No. Kep-78/Men/2001</p> <p>The basic amendment to this Kepmenakertrans is that if the work agreement or internal enterprise regulation (PP) or workplace agreement (PKB) contains provisions on providing severance pay, long service leave, and compensation in excess of the provisions in Kepmenakertrans No.78/2001, then the provisions in the work agreement or PP or PKB shall remain in effect.</p>

Source: SMERU, Industrial Relations in Jabotabek, Bandung, and Surabaya During the Freedom to Organize Era, May 2002.

